

FILED
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WORCESTER DIVISION

APR 4 11: 58

U.S. DISTRICT COURT
DISTRICT OF MASS.

SOLMETEX, INC., a Massachusetts
corporation,

Plaintiff,

v.

MAXIMUM SEPARATION SYSTEMS,
INC., a British Columbia Canada
corporation,

Defendant.

CAUSE NO. 04-40024-NMG

DECLARATION OF DR. CHRIS
BRYANT IN SUPPORT OF MOTION TO
DISMISS FOR LACK OF PERSONAL
JURISDICTION

Chris Bryant declares:

1. I am a practicing dentist who resides and maintains an office in Sooke, B.C., Canada. All facts set forth in my declaration are personally known to me and I am competent to be a witness in this litigation.
2. I am the President of Maximum Separation Systems, Inc. (**MSS**). As such, I am knowledgeable about the affairs of our company and its disputes with Solmetex, Inc. (**Solmetex**).
3. Maximum Separation Systems, Inc. is a small Canadian manufacturing company that is located on Vancouver Island in British Columbia, Canada. The company is closely held and not traded on any stock exchanges. MSS does not have any other business offices.

4. The company was formed in 1999 to exploit an invention by Dr. Richard Chilibeck to remove amalgam and other materials from the waste water in dental offices. Dr. Chilibeck is a Canadian dentist who practices in Victoria, B.C., Canada.

5. The company holds assignments to Dr. Chilibeck's patents in the United States and Canada, namely: United Kingdom Patent No. GB2358594 issued February 27, 2002, Canadian Patent No. 2,335,586, issued December 3, 2002; U.S. Patent No. 6,592,754, issued July 15, 2003 and U.S. Patent No. 6,692,636, issued February 17, 2004 (*'636 patent*).

6. At the time Dr. Chilibeck's '636 patent issued, the assignment to the company had not been recorded with the United States Patent and Trademark Office and therefore Dr. Chilibeck was the owner of record of the U.S. patent when it issued.

7. MSS also holds an assignment to a continuation-in-part application that is pending in the United States Patent and Trademark Office. Our Canadian and U.S. patents were prosecuted by our Canadian patent counsel, Robert H. Barrigar, Esq., of Barrigar Intellectual Property Group, in Victoria, British Columbia, Canada.

8. MSS is a relatively newly formed company and has not made significant inroads in the United States. MSS has sold approximately 30 separator units of its separator systems in the state of Washington and has four dealers servicing that state. Our website is located at <http://www.amalgamseparators.com/index.html>. Washington was the first state outside of Canada in which MSS began a selling effort for its separator system. MSS has advertised and attended trade shows in the state of Washington and uses facilities in Custer, WA for freight distribution in the United States.

9. While MSS has dealers and sales in the greater metropolitan area of Seattle, Washington, it has made no sales in Massachusetts. MSS does not have contractually obliged dealers or manufactures representatives in Massachusetts. The only business contact that our company has in Massachusetts are the letters that we have sent to Solmetex, Inc. advising it of our Canadian and U.S. patents and our belief that its Hg5 and Hg5 HV amalgam separator line of products infringes Dr. Chilibeck's patents. Copies of these letters are attached hereto as a part of Exhibit A.

10. Solmetex is a much larger and older company than MSS. It was formed in 1994 and conducts business in both the United States and Canada. By its own advertising, Solmetex has 10 dealers in the state of Washington as shown in Exhibit B, attached hereto, which is a copy of its website Directory/Dealer Locator page for Washington - <http://www.solmetex.com/dealerlocator.html> .

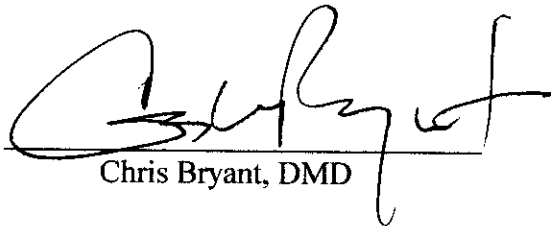
11. When the '636 patent issued on February 17, 2004, MSS filed a lawsuit in the Western District of Washington, Civil Cause No. C04-0324FDB.

12. A copy of the Complaint in that action is attached hereto as Exhibit C. On the same date, it appears that Solmetex filed an action against our company in this court.


13. On February 24, 2004, by United Parcel Service, MSS received a copy of the summons and complaint in this lawsuit. The transmittal letter, a copy of which is attached hereto as Exhibit D, was improperly addressed to Dr. Chilibeck as President, and stated that "The original Summons and Complaint will also be served upon Mr. Rex B. Stratton." Mr. Stratton is one of the attorneys of record in our lawsuit against Solmetex filed in the Western District of Washington, but he is not our agent for service of process

in the United States and he does not have authority from our company to receive service of process on its behalf.

14. This affidavit is signed by me under oath and is subject to the laws of perjury of Canada and of the United States.


Chris Bryant, DMD

Subscribed and sworn to before me this 28th day
of February, 2004:


Notary Public for the province of British Columbia
Residing at: Victoria, BC
My commission expires: Does not expire

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